

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

DAVID WAYNE MASON,	§	
	§	
Petitioner,	§	
	§	
v.	§	Case No. 6:23-cv-198-JDK-JDL
	§	
DIRECTOR, TDCJ-CID,	§	
	§	
Respondent.	§	

**ORDER ADOPTING THE REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE**

Petitioner David Wayne Mason, an inmate proceeding pro se, filed this petition for writ of habeas corpus without paying the \$5 filing fee or filing an application to proceed IFP. The case was referred to United States Magistrate Judge for findings of fact, conclusions of law, and recommendations for the disposition of the case. Docket No. 2.

On June 30, 2023, the Magistrate Judge issued a Report recommending that the petition be dismissed without prejudice for failure to satisfy the fee requirement and to comply with the Court's order to do so and recommending that a certificate of appealability be denied. Docket No. 5. Petitioner received the Report on July 11, 2023, and has not filed written objections. Docket No. 6.


This Court reviews the findings and conclusions of the Magistrate Judge de novo if a party objects within fourteen days of the Report and Recommendation. 28 U.S.C. § 636(b)(1). In conducting a de novo review, the Court examines the entire record and makes an independent assessment under the law. *Douglass v. United*

Servs. Auto. Ass'n, 79 F.3d 1415, 1430 (5th Cir. 1996) (en banc), *superseded on other grounds by statute*, 28 U.S.C. § 636(b)(1) (extending the time to file objections from ten to fourteen days).

Here, Petitioner did not object in the prescribed period. The Court therefore reviews the Magistrate Judge's findings for clear error or abuse of discretion and reviews his legal conclusions to determine whether they are contrary to law. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989), *cert. denied*, 492 U.S. 918 (1989) (holding that, if no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law.").

Having reviewed the Magistrate Judge's Report and the record in this case, the Court finds no clear error or abuse of discretion and no conclusions contrary to law. Accordingly, the Court hereby **ADOPTS** the Report and Recommendation of the United States Magistrate Judge (Docket No. 5) as the findings of this Court. Petitioner's petition for habeas corpus is hereby **DENIED** and **DISMISSED** without prejudice for failure to prosecute. The Court **DENIES** a certificate of appealability. All pending motions are **DENIED** as **MOOT**.

So **ORDERED** and **SIGNED** this 1st day of August, 2023.



JEREMY D. KERNODLE
UNITED STATES DISTRICT JUDGE